

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

SPECTRUM WT,

Plaintiff,

v.

WALTER WENDLER, *et al.*,

Defendants.

Case No.: 2:23-cv-00048-Z

Hon. Matthew J. Kacsmaryk

**PLAINTIFF'S UNOPPOSED MOTION TO PARTIALLY RECONSIDER
AMENDING THE SCHEDULING ORDER**

The Court's Second Amended Scheduling Order sets a trial date of January 14, 2026 (ECF No. 126). That date that conflicts with the January 13, 2026 federal jury trial that two of Plaintiff's counsel are set to try, a date Plaintiffs relayed to the Court in the parties' joint motion to amend the scheduling order (ECF No. 124 at PageID 1422). To prevent prejudice to the parties and ensure Plaintiffs can adequately prepare for trial and present its case to the Court, Plaintiff respectfully requests under Federal Rule of Civil Procedure 16(b)(4) and Local Civil Rule 40.1 for partial reconsideration and modification of the Second Amended Scheduling Order, setting trial to start on the Court's three-week docket starting February 3, 2025, as the Court had previously set (*see* ECF No. 122, First Amended Scheduling Order).

On November 3, 2025, the parties filed a joint motion (ECF No. 124) seeking a continuance of the scheduling deadlines set by the Court's October 28, 2025 First Amended Scheduling Order (ECF No. 122). On November 10, 2025, the Court denied the parties' motion (ECF No. 124) and issued a Second Amended Scheduling Order

setting trial on the Court's three-week trial docket beginning January 14, 2026, and expedited corresponding deadlines.

While Plaintiff appreciates the Court's effort to accommodate the parties' expressed concerns regarding previous deadlines' proximity to the holidays (see ECF No. 125 at PageID 1436–37), the Second Amended Scheduling Order creates a major conflict. As Plaintiff explained in the joint motion, Plaintiff's counsel of record Mr. Fitzpatrick and Mr. Zeman are scheduled on January 13, 2026, for a jury trial of three or more days in *I.P. v. Tullahoma City Schools*, Case No. 4:23-cv-26, in the Eastern District of Tennessee (ECF No. 124 at PageID 1422). While Plaintiff can meet the Court's pre-trial submission deadlines absent Mr. Fitzpatrick and Mr. Zeman, they cannot effectively try this case without them, especially because (a) Plaintiff's lead counsel, Mr. Morris, is also responsible for presenting oral argument to the *en banc* Fifth Circuit on January 23, and (b) Plaintiff's only other counsel of record, Mr. Steinbaugh, is undergoing a medical procedure in January (ECF No. 124 at PageID 1422).

The Court advised the parties at its September 10, 2025 status conference of its willingness to accommodate counsels' schedules, including planned vacations (see ECF No. 117 at 72:8–24). The conflict here is more pressing than a vacation, and so Plaintiff requests the Court accommodate a conflicting trial that renders counsel unavailable.

For these reasons, Plaintiff asks the Court to reconsider its November 10, 2025 Second Amended Scheduling Order, and reset trial for the three-week docket starting February 3, 2026, as set in the Court's First Amended Scheduling Order.

Dated: November 13, 2025

Respectfully submitted,

/s/ Adam B. Steinbaugh _____.

Adam B. Steinbaugh*

CA Bar No. 304829

Jeffrey D. Zeman*

MI Bar No. P76610

Foundation for Individual Rights
and Expression

510 Walnut St.; Ste. 900

Philadelphia, PA 19106

Tel: (215) 717-3473

Fax: (267) 573-3073

adam@thefire.org

jeff.zeman@thefire.org

JT Morris

TX Bar No. 24094444

Conor T. Fitzpatrick*

MI Bar No. P78981

Foundation for Individual Rights
and Expression

700 Pennsylvania Ave., SE; Ste. 340

Washington, DC 20003

Tel: (215) 717-3473

Fax: (267) 573-3073

jt.morris@thefire.org

conor.fitzpatrick@thefire.org

*Admitted *Pro Hac Vice*
Counsel for Plaintiff

Johnathan-Jayne Fanelli
President, Spectrum WT
Plaintiff

For these reasons, Plaintiff asks the Court to reconsider its November 10, 2025 Second Amended Scheduling Order, and reset trial for the three-week docket starting February 3, 2026, as set in the Court's First Amended Scheduling Order.

Dated: November 12, 2025

Respectfully submitted,

JT Morris
TX Bar No. 24094444
Conor T. Fitzpatrick*
MI Bar No. P78981
Foundation for Individual Rights
and Expression
700 Pennsylvania Ave., SE; Ste. 340
Washington, DC 20003
Tel: (215) 717-3473
Fax: (267) 573-3073
jt.morris@thefire.org
conor.fitzpatrick@thefire.org

Adam B. Steinbaugh*
CA Bar No. 304829
Jeffrey D. Zeman*
MI Bar No. P76610
Foundation for Individual Rights
and Expression
510 Walnut St.; Ste. 900
Philadelphia, PA 19106
Tel: (215) 717-3473
Fax: (267) 573-3073
adam@thefire.org
jeff.zeman@thefire.org

*Admitted *Pro Hac Vice*
Counsel for Plaintiff


Johnathan-Jayce Fanelli
President, Spectrum WT
Plaintiff

CERTIFICATE OF CONFERENCE

Under Local Rule 7.1, I certify that I conferred with David Bryant, attorney for Defendants. They indicated that Defendants do not oppose this motion.

/s/ Adam B. Steinbaugh
Adam B. Steinbaugh
FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, a true and correct copy of the foregoing document was transmitted via using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Adam B. Steinbaugh
Adam B. Steinbaugh
FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION